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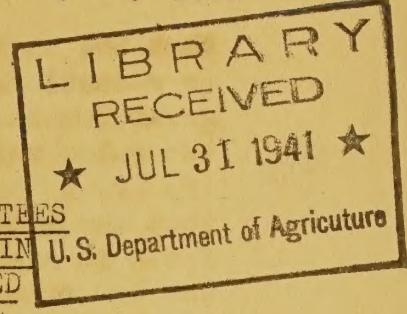
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Southern Region Misc. Series

Issued July 16, 1941

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
SOUTHERN DIVISION

PROCEDURAL GUIDE FOR USE BY COUNTY AND STATE COMMITTEES
IN DETERMINING IF CHANGE IN STATUS OR REDUCTION IN
NUMBERS OF TENANTS AND SHARECROPPERS IS JUSTIFIED



The instructions contained herein are for use as a guide by county and State committees in considering whether or not changes in relationships between landlords or operators and tenants or sharecroppers are justified within the meaning of Section 8 (f) of the Soil Conservation and Domestic Allotment Act, as amended. The committees should take these factors into consideration in connection with their determinations under the 1941 parity payment and agricultural conservation programs.

Section 8 (f), as amended May 14, 1940, now reads as follows:

"(f) Any change in the relationship between the landlord and the tenants or sharecroppers, with respect to any farm, that would increase over the previous year the amount of payments or grants of other aid under subsection (b) that would otherwise be made to any landlord shall not operate to increase such payment or grant to such landlord. Any reduction in the number of tenants below the average number of tenants on any farm during the preceding three years that would increase the payments or grants of other aid under such subsection that would otherwise be made to the landlord shall not hereafter operate to increase any such payment or grant to such landlord. Such limitations shall not apply if on investigation the local committee finds that the change is justified and approves such change in relationship or reduction. Such action of local committees shall be subject to approval or disapproval by State committees."

The fourth sentence was added at that time. No corresponding provision appeared in Section 8 (f) as originally enacted on February 16, 1938. This added sentence makes the decision of the State committee final. Hence no formal appeal in such a case may be taken to the Regional Director. However, this Act of Congress is nation-wide in its scope and is to be applied uniformly.

The third sentence, as enacted in 1938, read: "Such limitations shall apply only if the county committee finds that the change or reduction is not justified and disapproves such change or reduction." As the law now stands, that sentence reads: "Such limitations shall not apply if on investigation the local committee finds

that the change is justified and approves such change in relationship or reduction." This revision of the statute indicates that the Congress intended to strengthen the law in this connection and that the two rules which it laid down in the first two sentences of Section 8 (f) are to be applied in all but exceptional cases. Congress specified that the county committee shall make an investigation of the pertinent facts in each case and their significance. It further specified that the two rules are not to be applied if, after such investigation, the county committee affirmatively finds that the change in relationship or reduction in number of tenants and sharecroppers is justified by the particular facts and circumstances in the case and the State committee approves the change in relationship or reduction which was made in that case as being so justified.

In interpreting and applying Section 8 (f), we must not lose sight of the reason for its enactment. That was the necessity for a measure to discourage participants in the agricultural conservation programs from displacing tenants and sharecroppers or lowering their status. The Soil Conservation and Domestic Allotment Act already contained, in Section 8 (b), provisions requiring the Secretary of Agriculture, as far as practicable, to protect the interests of tenants and sharecroppers and small producers. The Congress recognized the need for further protection, in their interests and in the interest of the general public. Accordingly, it enacted and later revised Section 8 (f). It laid down two rules but recognized that, out of the many thousands of cases to which those rules would be applicable annually, there are bound to be some cases meriting different treatment. Hence, it provided a way for ascertaining the meritorious cases and making the general rules inapplicable as to them. The Congress placed this duty on the county and State committees because they are in position to select the unusual cases and to find and evaluate the pertinent facts.

The two rules in Section 8 (f) are so strongly worded that, in the light of the rest of the subsection and the rest of the statute, they raise a presumption that any change in relationship or reduction in tenants of the sort defined in those rules is a change or reduction that is not justified. That presumption may be overcome only by convincing proof that the case is one which the Congress intended should be treated as an exceptional case to which those rules are not to be applied.

In the findings of the county and State committees it is necessary to use the term "justified," because that is the expression used in the statute. It is interpreted as meaning "justified under all the facts and circumstances in the particular case." It is desirable to avoid the use of the word "unjustified" in passing upon cases, as it may be taken as implying more than the term "not justified," especially if use is made of the fuller expression, "not justified under all the facts and circumstances in this case."

In the light of the foregoing, it appears that the following general rules should be followed in applying the provisions of Section 8 (f) of the Act and in stating the decision in a particular case specific reference should be made to the particular rule(s) relied upon, or if the case does not properly come within one or more such rules the basis for the decision should be stated.

In considering for approval or disapproval a change in relationship between a landlord or operator and the tenants or sharecroppers with respect to any farm that would increase for the landlord or operator over the previous year the proportionate share of any soil-depleting crop for which a payment is computed, or a reduction in the number of tenants or sharecroppers as compared with the average of the preceding three years, that would increase for the landlord or operator over the average for such years the share of any soil-depleting crop for which a payment is computed, the following factors should be taken into account as guides by the county and State committees:

1. Changes or reductions made for the purpose of increasing the landlord's or operator's proportionate share of the payment under the agricultural conservation or parity payment programs shall in all cases be found not justified.
2. The following factors are not considered in and of themselves sufficient justification for a change or reduction:
 - (a) The acreage allotment for a crop was smaller than the acreage normally grown on the farm.
 - (b) The acreage of a particular crop grown on the farm was substantially smaller than the acreage normally grown thereon.
 - (c) Addition of mechanical equipment which resulted in reduced labor requirements for the farm.
 - (d) A tenant voluntarily left the farm. (In such cases the committee should consider whether or not it was possible for the landlord or operator to obtain another tenant before the time leasing or cropping agreements were ordinarily consummated.)
 - (e) A shift from one major cash crop to another major cash crop.
 - (f) Reduction in percentage share of a crop to a tenant when there was no corresponding change in the tenant's contribution to its production.

- (g) Need for increased income to landlord or operator.
- (h) The substitution of a hired hand for a tenant or sharecropper.

3. Factors which might be considered in and of themselves sufficient justification for a change or reduction:

- (a) A tenant or sharecropper left voluntarily and the landlord or operator was unable to secure another tenant or sharecropper after a diligent effort was made to do so.
- (b) A direct increase in the labor contribution of the family of the landlord or operator. (This might have resulted from the growing up of children, the return home of a member of the family, the marriage of a member of the family, or other similar circumstance.)
- (c) An absentee landlord or operator moved on the farm to operate it with the labor of his own family.
- (d) Voluntary abandonment of a crop by a tenant or sharecropper too late for the landlord or operator to secure a tenant or sharecropper to replace him. This provision shall not apply if abandonment has been a recurring practice under the past farming operations of the landlord or the operator.
- (e) A new landlord or operator moves on the farm and it would be necessary for him to change his normal system of farming if he were to retain the amount and type of labor normally used on the farm.
- (f) A change in landlord or operator where the new landlord or operator had a larger working force in his family than the previous landlord or operator had.
- (g) A tenant became a sharecropper because he was unable to continue to furnish workstock and equipment or because of other circumstances not the result of the action of the landlord or operator.

- (h) A neighboring farmer had been field-renting part of the farm and did not do so in 1941.
- (i) A share tenant or sharecropper normally worked on a farm on a share basis but bought the farm and operated it as owner in 1941.

I. W. Duggan

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Director, Southern Division

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SRM-518

Southern Region Miscellaneous Series

Issued June 19, 1941

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

SOUTHERN DIVISION

INSTRUCTIONS FOR HANDLING APPLICATIONS FOR PAYMENT SUBMITTED
ADMINISTRATIVE CLOSING DATES (1937 TO 1940, INCLUSIVE).

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SECTION I. AVAILABILITY OF APPROPRIATIONS:

<u>Program Year</u>	<u>Expiration of Period for Obligating Appropriation</u>	<u>Expiration of Appropriation</u>
1937 CAP	Available until obligated	Available until expended
1939 PAP	Available until obligated	Available until expended
1940 PP	June 30, 1942	June 30, 1944
1937 ACP	June 30, 1939	June 30, 1941
1938 ACP	June 30, 1940	June 30, 1942
1939 ACP	June 30, 1941	June 30, 1943
1940 ACP	June 30, 1942	June 30, 1944

SECTION II. ADMINISTRATIVE CLOSING DATES:

<u>State</u>	<u>1937 CAP</u>	<u>1939 PAP</u>	<u>1938 ACP</u>	<u>1939 ACP</u>	<u>1940 PP</u>	<u>1940 ACP</u>
Alabama	10-1-39	1-31-40	1-1-40	5-31-40	12-31-40	3-31-41
Arkansas	10-1-39	1-1-40	1-1-40	3-31-40	12-31-40	3-31-41
Florida	10-1-39	1-1-40	1-1-40	4-1-40	12-31-40	3-31-41
Georgia	10-1-39	12-31-39	1-1-40	4-30-40	12-31-40	3-31-41
Louisiana	10-1-39	1-31-40	1-1-40	5-31-40	12-31-40	3-31-41
Mississippi	10-1-39	1-31-40	1-1-40	5-31-40	12-31-40	3-31-41
Oklahoma	10-1-39	1-1-40	1-1-40	4-30-40	12-31-40	3-31-41
South Carolina	10-1-39	1-31-40	1-1-40	5-31-40	12-31-40	3-31-41
Texas	10-1-39	1-31-40	1-1-40	5-31-40	12-31-40	3-31-41

SECTION III. EXCEPTIONS TO CLOSING DATES:

A. The following types of cases may be accepted, if otherwise regular without approval of the State committee:

1. An adjustment application requesting an increased payment (other than one resulting from the provision for increasing small payments) if filed within 30 days after receipt of the
 - (a) Check by the applicant under the original application,
 - (b) Association expense deduction notice in cases where the applicant did not receive a check for any part of the payment computed under the original application,

- (c) Notice of corrected allotment or yield in cases where any allotment or yield has been corrected in accordance with an approved procedure,
- (d) Notice of decision in cases where producer has filed an appeal with county committee, State committee, or Director of the Southern Division.

2. An adjustment application resulting in a decreased payment may be filed at any time.
3. An adjustment application by a person whose interest was not shown on the original application may be filed by such person at any time during the period for obligating the appropriation.
4. An adjustment application correcting the division of payment between two or more applicants (or reducing the payment to an assignee) may be filed at any time during which the appropriation is available, provided the original application was timely filed.
5. A supplemental application by a person whose interest was shown on the original application but who failed to sign may be filed at any time during the period for obligating the appropriation.
6. An adjustment application requesting a conservation payment in cases where only the soil-building payment was paid under the original application because the county committee determined that the farm was not operated, and it was later determined that the farm was operated, may be filed at any time during the period for obligating the appropriation.

B. Applications filed after the administrative closing date but before the expiration of the period for obligating the appropriation may be accepted in the following cases, if otherwise regular, if approved by the State committee. (A statement of approval by the State committee shall accompany the application to prcaudit.)

1. Where the failure to file before the closing date was due to an error on the part of an officer or employee of the county association, as follows:
 - (a) Loss or misplacement of the application or other necessary papers.
 - (b) Erroneous determination that if the application were filed no payment would be made thereunder, as, for example, an erroneous determination of the amount earned or of noncompliance with provisions of the program.
 - (c) Failure to determine, or erroneous determination as to, who was eligible to file.

2. Where the producer was unable to sign the application before the expiration of the closing date due to:
 - (a) Sickness,
 - (b) The suspension or removal of a county agricultural association committee by the State committee or Regional Office.
 - (c) The failure of a U. S. Postmaster to forward a letter containing an application for payment to the producer when it is shown that the producer left a forwarding address.
3. Where, because of death or incompetency, bankruptcy, or other legal proceedings, the county committee was unable, prior to the expiration of the closing date, to determine who was eligible to file the application.
4. Where failure to file before the closing date was due to a disagreement as to the correctness of the assignment shown on the application.
5. An adjustment application under the 1938 or 1939 Agricultural Conservation Program or Parity Program requesting an increased payment (other than one resulting from the provision for increasing small payments) provided there is a certification by the county committee that the producer filed a verbal request with the county office within 30 days after receipt of the check by the applicant under the original application.

SECTION IV. APPLICATIONS FOR PAYMENT APPROVED AFTER APPROPRIATION HAS CEASED TO BE AVAILABLE FOR EXPENDITURE:

- A. In cases where payment is found to be due persons who participated in a program for which the appropriation has ceased to be available for expenditure and for whom obligations existed as of the date the appropriation ceased to be available, payment should be approved, if otherwise regular, and the case forwarded to the Director for submission to the Claims Division of the GAO. In such cases the application for payment shall be accompanied by a properly executed Form AD-42 which shall show the respective program appropriation as the appropriation chargeable. In addition to the usual statements in the administrative report, the report shall also contain a statement to the effect that the amount approved was included in the unexpended balance of the appropriation carried into the surplus fund on the date the appropriation ceased to be available for expenditure.

SECTION V. DATE OF APPLICATION:

A. The date to be entered on an application for payment shall be the date the signature of the applicant(s) was affixed, the date of filing, or the date the application was approved by the county committee, whichever is applicable under the program in connection with which application for payment is made. If such date is later than the last date on which in accordance with provisions of the preceding sections, an acceptable application (original, supplemental, or adjustment, as the case may be) may be filed but the applicant did file with the county office a written request for the payment on or before such final date, the written request shall be attached to the application. In cases where the application was signed and filed in the county office before the closing date but was not signed and dated by a county committeeman before the closing date, a certification by a county committeeman to that effect shall be attached to the application. In these cases the date on which the request was made (or the application was signed by the applicant) shall be considered, insofar as closing dates are concerned, to be the date on which application for payment was made.

SECTION VI. SUPPLEMENT NO. I TO ACP-115:

A. In accordance with the provisions of Supplement No. 1 to ACP-115, "Procedure Governing the Handling of Cases Involving Overpayments under any Programs Administered through the Agricultural Adjustment Administration," no closing date is applicable to adjustment applications under 1939 or prior agricultural conservation or rental-benefit programs filed by an underpaid producer where his payment was made to another producer prior to July 2, 1940.

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